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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,160

03/26/2004

Eric Joseph Bilskie

9596

1981

27752

7590

03/31/2008

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EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

03/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,160	<b>Applicant(s)</b> BILSKIE ET AL.	
	<b>Examiner</b> Kenneth E. Peterson	<b>Art Unit</b> 3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,10,15,17 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9,11-14,16,18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

1. Applicant's appeal brief, received 25 Feb 08 has been considered and found to be unpersuasive. During an appeal conference with Supervisory Patent Examiner Boyer Ashley, Supervisory Patent Examiner Allan Shoap and Expert Patent Examiner Ken Peterson, it was determined that the McCay in view of Esping rejection was good and could be forwarded to the Board. However, during an update search, an additional rejection was conceived. Since it would be inappropriate to advance to the board without employing all applicable rejections, prosecution is hereby reopened to add the new rejection.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3-7,9,11-14,16,18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable under McCay (4,506,575) in view of Esping (6,761,098).

McCay et al.'575 shows a core slabber with most of the recited limitation including a cutter (30) mounted on an axial traversing element (23,31), which in turn is mounted on a radial traversing element (11). The feeler 80 constitutes a controller that determines a maximum depth of cut (paragraph spanning columns 3 and 4).

McCay lacks an integral transport element with two engaging portions, but it is well known in the art to employ an integral transport element, as taught by Esping et al.'098, who shows in figure 2 a pair of engagement pins (18) for transporting the roll

upward to the slabbing position (lines 28-30, column 2). It would have been obvious to one of ordinary skill in the art to have modified McCay by *replacing* his roll support with Esping's integral transport/roll-support element, as taught by Esping, in order to facilitate lifting the heavy roll into the slabbing position.

The "feed section" is below the roll in McCay's figure 2. The pins 18 lift the roll from the "feed section" up to the slabbing position.

The "discharge section" can be any spot nearby McCay's machine. The roll "may be conveyed" to the discharge section. Note that Applicant has claimed no structure for performing this task. It could be rolled there manually.

The "material removal section" is wherever the conveyor takes the material (lines 33,34, column 2).

4. Claims 1,3-5,9,11,12,16 are rejected under 35 U.S.C. 103(a) as being unpatentable under Pyron et al. (5,759,350) in view of Pienta (5,308,217).

Pyron shows a core slabber with most of the recited limitation including a cutter (12) mounted on an axial traversing element (164,180) and a radial traversing element (145,150). The sensor (lines 5-7, column 6) constitutes a controller that determines a maximum depth of cut.

On lines 39-43 of column 5, Pyron discusses transporting the core from one apparatus onto the core slabbing apparatus, but Pyron does not disclose any detail of this transporting mechanism and whether or not it has any core engaging portions. However, Pienta shows that it is well known in the art to employ a transport element

having core engaging portions when one needs to move large rolls of material from one apparatus to the next (lines 43-45, column 1).

It would have been obvious to one of ordinary skill in the art to have provided Pyron with Pienta's transport element, in order to facilitate lifting the heavy roll into the slabbing position. Pyron clearly needs some mechanism to do this, and Pienta suggests himself on lines 43-45 of column 1.

The "feed section" is where the roll came from.

The "discharge section" is wherever the roll goes after it is stripped. The roll "may be conveyed" to the discharge section. Note that Applicant has claimed no structure for performing this task. It could be rolled there manually.

The "material removal section" is 25 or wherever the material goes.

In regards to claim 16, there is the recitation that the transporting element be "integral" with the slabbing apparatus. The choice of whether or not to make Pienta's transporting element integral or separable with Pyron's core slabber is a decision that can be made by one of ordinary skill in the art based on whether or not the transporting element is needed exclusively for this function, or if it might be needed elsewhere as well.

5. Claims 1,3-7,9,11-14,16,18,19 are rejected under 35 U.S.C. 103(a) as being unpatentable under Pyron et al. (5,759,350) in view of Pienta (5,308,217), as set forth above, and further in view of McCay (4,506,575).

In regards to at least claims 6,7,13,14,18 and 19, Pyron's cutter is mounted on the radial elements and *then* on the axial element, as opposed to vise versa. Of course, this works either way as exemplified by McCay. It would have been obvious to one of ordinary skill in the art to have modified Pyron by making the cutter be mounted on the axial element, and *then* on the radial element, as taught by McCay, as this is just one out of two possible ways to movable mount the cutter.

This modification is unnecessary, but in regards to all the claims, Pyron shows a sensor (lines 5-7, column 6) that constitutes a controller that determines a maximum depth of cut. However, there are many ways to do this, and McCay shows a different way, namely there is a feeler 80 that constitutes a controller that determines a maximum depth of cut (paragraph spanning columns 3 and 4). It would have been obvious to one of ordinary skill in the art to have replaced Pyron's controller with McCay's controller, since they are art recognized equivalents known for the same purpose.

6. Made of record but not relied on is a patent to Salsburg showing a pertinent transporting element.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth E. Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Mon-Thur, 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth E Peterson/  
Primary Examiner, Art Unit 3724